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BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF A SUBSTANTIAL  
DEVELOPMENT PERMIT ISSUED BY  
THE CITY OF KIRKLAND TO  
C. S. HADLEY, SR.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY,  
SLADE GORTON, ATTORNEY GENERAL,  
MAX AND EDITH PATASHNIK,  
SEYMOUR M. ROSENTHAL,  
MRS. H. J. BIGELOW,  
MARGERY DOGOTCH and JAN GARRITSON,

Appellants,

vs.

CITY OF KIRKLAND and  
C. S. HADLEY, SR.,

Respondents.

SHB Nos. 54, 54-A and 54-B

FINAL FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

15 This matter, being consolidated Requests for Review to the  
16 issuance of a substantial development permit by the City of Kirkland to  
17 C. S. Hadley, Sr., came before the Shorelines Hearings Board (Walt  
18 Woodward, presiding officer) at a hearing in the Council Chambers of

1 the Kirkland City Hall at 9:30 a.m., October 11, 1973. The hearing  
2 was continued there for day and night sessions on October 12, 1973,  
3 and was concluded in a day session in the Central School, Kirkland,  
4 on October 15, 1973.

5 Appellants appeared through Robert V. Jensen, Assistant Attorney  
6 General; respondent City of Kirkland appeared through Ralph I. Thomas,  
7 and respondent Hadley through Ralph A. Alfieri. Dave Ummel and Eugene E.  
8 Barker, Olympia court reporters, recorded the proceedings.

9 Witnesses were sworn and testified. Exhibits were admitted.  
10 All parties submitted written arguments.

11 From testimony heard, exhibits examined, arguments considered,  
12 transcript reviewed and exceptions filed, the Shorelines Hearings Board  
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##### 15 I.

16 Lake Washington (hereafter, "lake") lies entirely within  
17 King County. It is a shoreline of state wide significance under  
18 the Shoreline Management Act (RCW 90.58). The City of Kirkland  
19 lies on the lake's east shore between Yarrow Bay on the south  
20 and Juanita Bay on the north.

##### 21 II.

22 Of the eleven governmental entities contiguous to the lake,  
23 Kirkland became one of the first and one of a few to develop a  
24 comprehensive plan for its waterfront. In August, 1971, it adopted  
25 a waterfront element of this plan, Ordinance Number 2160. In May,  
26 1972, it adopted a comprehensive zoning ordinance (Number 2183)

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1 which was amended in January, 1973, with land use regulations for  
2 two waterfront districts.

3 III.

4 Waterfront District I, with which we are concerned in this  
5 matter, recognizes that Kirkland is one of only two or three  
6 governmental entities contiguous to the lake where, historically,  
7 commercial and industrial development has occurred along the  
8 waterfront. The area within Waterfront District I, south from  
9 Kirkland's central business district, is a mixture of public parks,  
10 street ends, single family residences, apartment structures (some  
11 over the water), one to three story commercial buildings and a  
12 marina.

13 IV.

14 The northern portion of Waterfront District I overlaps and  
15 includes a portion of the central business district. In January,  
16 1973, this portion--whose southern boundary is the southern  
17 boundary of the land involved in this matter--was zoned by the  
18 City of Kirkland with the special designation of Waterfront District  
19 I/Central Business District.

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21 Early in 1973, the State Department of Ecology, pursuant to  
22 RCW 90.58.110, declared the lake a region for regional planning and  
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5 to the State Department of Ecology for its use in appraising master  
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7 lake and to provide a basis for evaluating applications for substantial  
8 development permits until such time as master programs have been  
9 approved and implemented.

10 VI.

11 The City of Kirkland Waterfront Development Plan and Program  
12 indicates an existing demand for 102 moorages for pleasure boats in  
13 addition to moorages already available. Such additional moorages are  
14 required by the City of Kirkland to be located within the confines of  
15 Waterfront District I.

16 VII.

17 On October 17, 1972, respondent Hadley applied to respondent  
18 City of Kirkland for a substantial development permit to construct  
19 an office building and marina between the inner harbor line of the  
20 lake on the west and Lake Street South on the east in Kirkland,  
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23 District created three months later by the City of Kirkland. The  
24 application was for 100 boat moorages (some of them covered) and for  
25 a seven story structure 95 feet above high water (lower two stories  
26 for vehicular parking, a plaza level with rental space and upper four

27 FINAL FINDINGS OF FACT,  
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1 stories for offices, topped by a mechanical and elevator penthouse).

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3 On February 5, 1973, the City of Kirkland approved the permit.  
4 Appellants filed timely Requests for Review of the permit with the  
5 Shorelines Hearings Board. Subsequently, an environmental impact  
6 statement was prepared. Respondent Hadley modified his application  
7 for a substantial development permit by eliminating all covered  
8 moorages, reducing the moorage spaces to 66, moving the moorage area  
9 north ten feet and reducing the plaza and office structure by one  
10 story. The City of Kirkland approved the modified permit application  
11 on September 4, 1973. That modified permit is the subject of these  
12 Requests for Review.

13 IX.

14 The office structure, 144 feet in the east-west direction and 56  
15 feet in the north-south direction of the shoreline, would rise,  
16 including the mechanical penthouse, 83 feet above high water and  
17 64 feet above Lake Street South, the City of Kirkland's major  
18 north-south arterial in that area.

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20 The Hadley building, would be the tallest structure on the  
21 Kirkland waterfront and one of the tallest structures in the city.

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23 The City of Kirkland, in approving the substantial development  
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25 of a substantial number of residences on the area adjoining the  
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About 500 residences in Kirkland, including those in multi-family apartments and condominiums, have a view of Moss Bay, which is that portion of the lake west of Kirkland. About 30 of those residences would have their view of Moss Bay obstructed by the Hadley office structure. To the east of the property involved in the instant permit, there are at least two parcels of land totaling 53,000 square feet, the owner of which is attempting to interest developers to construct on them multi-family dwellings. The view of Moss Bay from those dwellings would be obstructed by the Hadley office structure. In total, the views obstructed and those which could be obstructed, are substantial.

XIII.

Respondent Hadley indicates some of the office building's tenancy will be water-oriented. None of it has been established to be water-dependent.

XIV.

There is no showing that overriding considerations of the public interests will be served by the Hadley office building.

XV.

Any Conclusion of Law hereinafter recited which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings, the Shorelines Hearings Board comes to these

CONCLUSIONS OF LAW

I.

There is no question that the granting of the permit was an act

FINAL FINDINGS OF FACT,  
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1 by the City of Kirkland consistent with its waterfront "downtown."  
2 However, the City of Kirkland's waterfront is but a small portion of  
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4 Management Act, is a shoreline of state-wide significance.

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7 It would help alleviate the deficiency of boat moorages in the Kirkland  
8 area. It is within an area of the Kirkland shoreline zone for the  
9 location of moorages. That portion of the instant permit which refers  
10 to the moorage should be sustained.

11 III.

12 The office building portion of the instant permit is another matter  
13 and is subject to WAC 173-16 in two instances and to at least two tests  
14 in RCW 90.58.

15 IV.

16 Since the high-rise office building is not water-dependent, it would  
17 be contrary to the non-mandatory provisions of WAC 173-16-060(4)(a) and  
18 (c), and that portion of WAC 173-16-040(4)(b)(iv) which states as follows

19 "Because shorelines suitable for urban uses are a limited  
20 resource, emphasis should be given to development within  
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frontage on navigable waters."

22 V.

23 As to RCW 90.58.320, the structure would rise to a height of almost  
24 double the limit of 35 feet specified in the Section. While the City  
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1 evidence. No master program has been adopted for the area. As to  
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4 RCW 90.58.140(2)(a)(iii) calls for a testing of the permit against,  
5 "so far as can be ascertained, the master program being developed for  
6 the area" (emphasis supplied). The published, but not adopted, goals  
7 and policies of the Lake Washington Regional Citizens Advisory Committee  
8 are the latest word available to the Board in the master program being  
9 developed for the area and were admitted into evidence without objection.  
10 The proposed office structure runs afoul of several constraints in those  
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12 the goals and policies); it is of questionable "aesthetic value" (page 7)  
13 it does not preserve or enhance views of the shoreline (page 13); it d ,  
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16 office building portion of the permit should be denied.

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18 Any Finding of Fact, which should be deemed a Conclusion of Law,  
19 is hereby adopted as such.

20 Therefore, the Shorelines Hearings Board issues this

21 ORDER

22 The instant permit, as to the moorage facility, is sustained.  
23 The instant permit, as to the office structure, is vacated.

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1 DONE at Lacey, Washington this 31st day of May, 1974.

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3 Walt Woodward  
4 WALT WOODWARD, Chairman

5 Ralph A. Beswick  
6 RALPH A. BESWICK, Member

7 Robert F. Hintz  
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10 VI.

11 The City of Kirkland Waterfront Development Plan and Program  
12 indicates an existing demand for 102 moorages for pleasure boats in  
13 addition to moorages already available. Such additional moorages are  
14 required by the City of Kirkland to be located within the confines of  
15 Waterfront District I.

16 VII.

17 On October 17, 1972, respondent Hadley applied to respondent  
18 City of Kirkland for a substantial development permit to construct  
19 an office building and marina between the inner harbor line of the  
20 lake on the west and Lake Street South on the east in Kirkland,  
21 King County. The property became the southernmost parcel lying  
22 within the special Waterfront District I/Central Business  
23 District created three months later by the City of Kirkland. The  
24 application was for 100 boat moorages (some of them covered) and for  
25 a seven story structure 95 feet above high water (lower two stories  
26 for vehicular parking, a plaza level with rental space and upper four

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

1 stories for offices, topped by a mechanical and elevator penthouse).

2 VIII.

3 On February 5, 1973, the City of Kirkland approved the permit.  
4 Appellants filed timely Requests for Review of the permit with the  
5 Shorelines Hearings Board. Subsequently, an environmental impact  
6 statement was prepared. Respondent Hadley modified his application  
7 for a substantial development permit by eliminating all covered  
8 moorages, reducing the moorage spaces to 66, moving the moorage area  
9 north ten feet and reducing the plaza and office structure by one  
10 story. The City of Kirkland approved the modified permit application  
11 on September 4, 1973. That modified permit is the subject of these  
12 Requests for Review.

13 IX.

14 The office structure, 144 feet in the east-west direction and 56  
15 feet in the north-south direction of the shoreline, would rise,  
16 including the mechanical penthouse, 83 feet above high water and  
17 64 feet above Lake Street South, the City of Kirkland's major  
18 north-south arterial in that area.

19 X.

20 The Hadley building, would be the tallest structure on the  
21 Kirkland waterfront and one of the tallest structures in the city.

22 XI.

23 The City of Kirkland, in approving the substantial development  
24 permit, found that the office structure would not obstruct the view  
25 of a substantial number of residences on the area adjoining the  
26 shorelines.

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS AND ORAL

XII.

About 500 residences in Kirkland, including those in multi-family apartments and condominiums, have a view of Moss Bay, which is that portion of the lake west of Kirkland. About 30 of those residences would have their view of Moss Bay obstructed by the Hadley office structure. To the east of the property involved in the instant permit, there are at least two parcels of land totaling 53,000 square feet, the owner of which is attempting to interest developers to construct on them multi-family dwellings. The view of Moss Bay from those dwellings would be obstructed by the Hadley office structure. In total, the views obstructed and those which could be obstructed, are substantial.

XIII.

Respondent Hadley indicates some of the office building's tenancy will be water-oriented. None of it has been established to be water-dependent.

XIV.

There is no showing that overriding considerations of the public interests will be served by the Hadley office building.

XV.

Any Conclusion of Law hereinafter recited which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings, the Shorelines Hearings Board comes to these

CONCLUSIONS OF LAW

I.

There is no question that the granting of the permit was an act

FINAL FINDINGS OF FACT,  
CONCLUSIONS AND ORDER



1 by the City of Kirkland consistent with its waterfront "downtown."  
2 However, the City of Kirkland's waterfront is but a small portion of  
3 the entire shoreline of Lake Washington which, under the Shoreline  
4 Management Act, is a shoreline of state-wide significance.

5 II.

6 The moorage portion of the instant permit is water-dependent.  
7 It would help alleviate the deficiency of boat moorages in the Kirkland  
8 area. It is within an area of the Kirkland shoreline zone for the  
9 location of moorages. That portion of the instant permit which refers  
10 to the moorage should be sustained. .

11 III.

12 The office building portion of the instant permit is another matter  
13 and is subject to WAC 173-16 in two instances and to at least two tests  
14 in RCW 90.58.

15 IV.

16 Since the high-rise office building is not water-dependent, it would  
17 be contrary to the non-mandatory provisions of WAC 173-16-060(4)(a) and  
18 (c), and that portion of WAC 173-16-040(4)(b)(iv) which states as follows

19 "Because shorelines suitable for urban uses are a limited  
20 resource, emphasis should be given to development within  
21 already developed areas and particularly to water-  
dependent industrial and commercial uses requiring  
frontage on navigable waters."

22 V.

23 As to RCW 90.58.320, the structure would rise to a height of almost  
24 double the limit of 35 feet specified in the Section. While the City  
25 of Kirkland found that a substantial number of residential views  
26 would not be obstructed, this Board found to the contrary from the

27 FINAL FINDINGS OF FACT,  
CONCLUSIONS AND ORDER

1 evidence. No master program has been adopted for the area. As to  
2 RCW 90.58.320, then, the office building portion of the permit should  
3 be denied.

4 RCW 90.58.140(2)(a)(iii) calls for a testing of the permit against,  
5 "so far as can be ascertained, the master program being developed for  
6 the area" (emphasis supplied). The published, but not adopted, goals  
7 and policies of the Lake Washington Regional Citizens Advisory Committee  
8 are the latest word available to the Board in the master program being  
9 developed for the area and were admitted into evidence without objection.  
10 The proposed office structure runs afoul of several constraints in those  
11 goals and policies, to wit: It is not water-dependent (pages 5 and 18 of  
12 the goals and policies); it is of questionable "aesthetic value" (page 7)  
13 it does not preserve or enhance views of the shoreline (page 13); it d ;  
14 substantially obstruct views and has no saving overriding consideration  
15 of the public (page 22). As to RCW 90.58.140(2)(a)(iii), then, the  
16 office building portion of the permit should be denied.

17 VI.

18 Any Finding of Fact, which should be deemed a Conclusion of Law,  
19 is hereby adopted as such.

20 Therefore, the Shorelines Hearings Board issues this

21 ORDER

22 The instant permit, as to the moorage facility, is sustained.  
23 The instant permit, as to the office structure, is vacated.

24  
25  
26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS AND ORDER

1 DONE at Lacey, Washington this 31st day of May, 1974.

2 SHORELINES HEARINGS BOARD

3 Walt Woodward  
4 WALT WOODWARD, Chairman

5 Ralph A. Beswick  
6 RALPH A. BESWICK, Member

7 Robert F. Hintz  
8 ROBERT F. HINTZ, Member

9 Mary Ellen McCaffree  
10 MARY ELLEN McCAFFREE, Member

11 MINORITY ADDENDUM IN SUPPORT OF ORDER

12 We, a minority of the Board, also support the Order for this  
13 additional reason:

14 To approve the permit now would ratify a precedent-setting local  
15 stamp of approval on a massive structure just at a time when a duly  
16 constituted regional body of citizens is attempting to frame regional  
17 guidelines for master programs affecting the entire lake. This would  
18 be a "fait accompli" at a critical moment in "the interest of all the  
19 people" which, according to RCW 90.58.020, "shall be paramount in the  
20 management of the shorelines of state-wide significance."

21 Walt Woodward  
22 WALT WOODWARD, Chairman

23 Mary Ellen McCaffree  
24 MARY ELLEN McCAFFREE, Member

25  
26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS AND ORDER

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FEB 23 1976

Shorelines hearings board

By \_\_\_\_\_

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

IN THE MATTER OF A SUBSTANTIAL  
DEVELOPMENT PERMIT ISSUED BY  
THE CITY OF KIRKLAND TO  
C. S. HADLEY, SR.

C. S. HADLEY, SR.,

Petitioner,

vs.

STATE OF WASHINGTON,  
DEPARTMENT OF ECOLOGY, SLADE  
GORTON, ATTORNEY GENERAL,  
MAX AND EDITH PATASHNIK,  
SEYMOUR M. ROSENTHAL,  
MRS. H. J. BIGELOW,  
MARGERY DOGOTCH and  
JAN GARRITSON,

Respondents.

NO. 781 877

ORDER OF DISMISSAL

SHB Nos 54 (54A) 54B

THIS MATTER having come on before the undersigned Judge/  
Court Commissioner of the above-entitled court upon the oral  
motion of Ralph A. Alfieri, the court being advised that the  
parties have settled this matter by out of court stipulation,  
and being fully advised in the premises, it is now, therefore,

ORDERED, ADJUDGED and DECREED that the above captioned  
case is dismissed with prejudice and without costs.

DONE IN OPEN COURT this 5 day of February,  
1976.

/s/ Norman W. Quinn  
JUDGE/COURT COMMISSIONER

Presented by:

/s/ Ralph A. Alfieri  
RALPH A. ALFIERI  
Attorney for C. S. Hadley, Sr.

ORDER OF DISMISSAL - 1

Albert Husseman Pittle & Watkins  
Suite 200 Grand Central Office Park

1 Approved as to Form and Notice of  
2 Presentation waived:

3 Robert V. Jensen  
4 ROBERT V. JENSEN  
5 Assistant Attorney General  
6  
7

8 Approved as to Form and Notice of  
9 Presentation waived:

10 B/  
11 RALPH THOMAS  
12 Of Ostrander, Van Eaton, Thomas & Perrell  
13 Attorneys for City of Kirkland  
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FEB 23 1976

Shorelines hearings board

By \_\_\_\_\_

SUPERIOR COURT OF WASHINGTON FOR KING COUNTY

IN THE MATTER OF A SUBSTANTIAL  
DEVELOPMENT PERMIT ISSUED BY  
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MRS. H. J. BIGELOW,  
MARGERY DOGOTCH and  
JAN GARRITSON,

Respondents.

NO. 781 877

ORDER OF DISMISSAL

SHB Nos 5-1, 5-1A, 5-1B

THIS MATTER having come on before the undersigned Judge/  
Court Commissioner of the above-entitled court upon the oral  
motion of Ralph A. Alfieri, the court being advised that the  
parties have settled this matter by out of court stipulation,  
and being fully advised in the premises, it is now, therefore,

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case is dismissed with prejudice and without costs.

DONE IN OPEN COURT this 5 day of February,  
1976.

/s/ Norman W. Quinn  
JUDGE/COURT COMMISSIONER

Presented by:

/s/ Ralph A. Alfieri  
RALPH A. ALFIERI  
Attorney for C. S. Hadley, Sr.

ORDER OF DISMISSAL - 1

*Allen, Husseman, Patic & Watkins*  
Suite 210 Grand Central on the park

1 Approved as to Form and Notice of  
2 Presentation waived:

3 Robert V. Jensen  
4 ROBERT V. JENSEN  
5 Assistant Attorney General  
6  
7

8 Approved as to Form and Notice of  
9 Presentation waived:

10 B/  
11 RALPH THOMAS  
12 Of Ostrander, Van Eaton, Thomas & Ferrell  
13 Attorneys for City of Kirkland  
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